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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,428	01/27/2004	Stuart R. Melton	HE0218	1523

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EXAMINER	
WONG, ERIC K	

ART UNIT	PAPER NUMBER
2883	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/765,428	MELTON ET AL.
	Examiner	Art Unit
	Eric Wong	2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 January 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-57* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-57* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 January 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *attached*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-7, 11, 13, 17 and 21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims in below table of copending applications. Although the conflicting claims are not identical, they are not patentably distinct from each other because it appears the structure of the co-pending applications are identical. By merely using different terminology, configurations or arrangement of parts is a general engineering practice to provide optimal performance and to protect components from damage. Examiner's contention of this obvious choice in design can be overcome if applicant establishes unexpected results by arranging and using the components as claimed.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10/765428	10/963045	10/765434

1-2	2, 5, 20	3-5, 18, 32
3-4	3, 25, 51	
5-6	3, 28-29, 42	5, 20, 26, 33-34
7	43	7, 21, 35
11	14, 32, 45	9, 23, 27, 41
13	15, 33, 46	10, 24
17, 21	18, 38, 49	15, 29, 43

Claim Objections

3. Claims 4, 4' are objected to because of the following informalities: There are two limitations labeled as "claim 4". For examination purposes, Examiner has examined the two claims as claim 4 and claim 4' respectively. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-6, 8-10, 13-15, 18-26, 28-31, 33-35, 37-39, 41-45, 47-48, 50-52, 54, and 56-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Number 6,234,683 to Waldron et al. (hereinafter Waldron), and further in view of United States Patent Number 6,188,822 to McAlpine et al. (hereinafter McAlpine).

As to claims 1, 3-5, 6, 8, 9, 10, 18-19, 20-26, 28-31, 37-39, 41-45, 47-48, 54, and 56-57, Waldron discloses a preconnectorized outdoor cable comprising:

- A cable;
- At least one plug connector;
- A crimp assembly, wherein the crimp assembly includes a crimp housing and a crimp band, wherein the crimp housing comprises two half-shells having a longitudinal passageway for passing the at least one optical fiber therethrough, at least one cable clamping portion and a connector assembly clamping portion, wherein the at least one cable clamping portion secures at least one tensile element (Figure 1 depicts two halfshells with a crimp housing and assembly holding a fiber portion with a ferrule); and
- A connector assembly, and the connector assembly includes a connector body and a ferrule, wherein a portion of the connector assembly is secured in the connector assembly clamping portion of the two halfshells of the crimp housing (the internal portions of the two halfshell portions of figure 1 contain a connector assembly).
- A keyed passageway (column 6, lines 44-50).

As to claim 2, the connector assembly secures a plurality of connectors.

As to claims 13, 33, and 50, an O-ring is disclosed (60, Figure 1).

As to claims 14, 34, and 51 the shroud has notches/slits used for alignment.

As to claims 15, 35, and 52 "fingers" protrude from the connector assembly.

However, Waldron fails to disclose a tensile element as a strength member.

McAlpine discloses an optical cable with a tensile strength member and a conductive electrical portion to prevent buckling and to provide a self-supporting cable.

Since Waldron and McAlpine are both from the same field of endeavor, the use of a strength cable as disclosed by McAlpine would have been recognized in the pertinent art of Waldron.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the strength cable of McAlpine and connectorize it with the harsh environment field cable connector of Waldron in order to provide a more rugged and durable pre-connectorized cable.

6. Claims 7, 27 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waldron in view of McAlpine as applied to claim 1 above.

Waldron in view of McAlpine disclose a crimp and crimp assembly, but fails to explicitly disclose a coupling nut.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a coupling nut, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954). It appears to the Examiner that a coupling nut would provide for adjustability of the shroud housing of Waldron in view of McAlpine.

7. Claims 11-12, 17, 32, 40, 49 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waldron in view of McAlpine as applied to claims above.

Waldron in view of McAlpine disclose a cable for harsh environments, but fails to explicitly disclose the use of heat shrink tubing and UV material. It is noted that heat shrink

tubing is widely used in the art to secure cables and UV curable materials are widely used in the optical communication art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use heat shrink tubing and UV stabilized material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Examiner's contention of this obvious choice in design can be overcome if applicant establishes unexpected results by using heat shrink tubing as claimed.

8. Claims 16, 36 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waldron in view of McAlpine as applied to claims above, and further in view of United States Patent Number 4,902,238 to Iacobucci.

Waldron in view of McAlpine discloses a pre-connectorized cable with a protective cap, but fails to explicitly disclose a retention means. It is noted that such retention means are widely used and known in the art.

Iacobucci discloses a protective cap with a retention wire.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the retention wire of Iacobucci in the protective cap of Waldron in view of McAlpine in order to store and secure the cap and prevent its loss.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Wong whose telephone number is 571-272-2363. The examiner can normally be reached on Monday through Friday, 830AM - 430PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EW

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